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HOUSE BILL 14

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2003

INTRODUCED BY

Ted Hobbs

AN ACT

**RELATING TO PUBLIC FINANCES; PROVIDING ADDITIONAL INCOME TAX
RELIEF FOR SENIOR CITIZENS, FAMILIES, INDIVIDUALS AND HEADS OF
HOUSEHOLDS; PROVIDING INCENTIVES FOR ECONOMIC DEVELOPMENT
INITIATIVES AND FOR THE USE OF ALTERNATIVE FUEL VEHICLES;
PROVIDING GROSS RECEIPTS TAX RELIEF FOR HEALTH CARE
PRACTITIONERS; PROVIDING FOR ADMINISTRATIVE REFORMS; MAKING
DISTRIBUTIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
NMSA 1978; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 7-1-24 NMSA 1978 (being Laws 1965,
Chapter 248, Section 26, as amended) is amended to read:**

"7-1-24. ADMINISTRATIVE HEARING--PROCEDURE. --

**A. Any taxpayer may dispute the assessment to the
taxpayer of any amount of tax, the application to the taxpayer**

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1 of any provision of the Tax Administration Act or the denial of
2 or failure to either allow or deny a claim for refund made in
3 accordance with Section 7-1-26 NMSA 1978 by filing with the
4 secretary a written protest against the assessment or against
5 the application to the taxpayer of the provision or against the
6 denial of or the failure to allow or deny the amount claimed to
7 have been erroneously paid as tax. Every protest shall
8 identify the taxpayer and the tax involved and state the
9 grounds for the taxpayer's protest and the affirmative relief
10 requested. The statement of grounds for protest shall specify
11 individual grounds upon which the protest is based and a
12 summary statement of the evidence expected to be produced
13 supporting each ground asserted, if any; provided that the
14 taxpayer may supplement the statement at any time prior to ten
15 days before any hearing conducted on the protest pursuant to
16 Subsection D of this section or, if a scheduling order has been
17 issued, in accordance with the scheduling order. The secretary
18 may, in appropriate cases, provide for an informal conference
19 before setting a hearing of the protest or acting on any claim
20 for refund.

21 B. Any protest by a taxpayer shall be filed within
22 thirty days of the date of the mailing to the taxpayer by the
23 department of the notice of assessment or mailing to, or
24 service upon, the taxpayer of other peremptory notice or
25 demand, or the date of mailing or filing a return. Upon

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1 written request of the taxpayer made within the time permitted
2 for filing a protest, the secretary may grant an extension of
3 time, not to exceed sixty days, within which to file the
4 protest. If a protest is not filed within the time required
5 for filing a protest or, if an extension has been granted,
6 within the extended time, the secretary may proceed to enforce
7 collection of any tax if the taxpayer is delinquent within the
8 meaning of Section 7-1-16 NMSA 1978. Upon written request of
9 the taxpayer made after the time for filing a protest but not
10 more than sixty days after the expiration of the time for
11 filing a protest, the secretary may grant a retroactive
12 extension of time, not to exceed sixty days, within which to
13 file the protest; provided that the taxpayer demonstrates to
14 the secretary's satisfaction that the taxpayer was not able to
15 file a protest or to request an extension within the time to
16 file the protest and that the grounds for the protest have
17 substantial merit. The fact that the department did not mail
18 the assessment or other peremptory notice or demand by
19 certified or registered mail or otherwise demand and receive
20 acknowledgment of receipt by the taxpayer shall not be deemed
21 to demonstrate the taxpayer's inability to protest or request
22 an extension within the time for filing a protest within the
23 required time. The secretary shall not grant a retroactive
24 extension if a levy has already been served under Section
25 7-1-31 or 7-1-33 NMSA 1978 or a jeopardy assessment has been

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1 made under Section 7-1-59 NMSA 1978. No proceedings other than
2 those to enforce collection of any amount assessed as tax and
3 to protect the interest of the state by injunction, as provided
4 in Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and
5 7-1-58 NMSA 1978, are stayed by timely filing of a protest
6 under this section.

7 C. Claims for refund shall be filed as provided for
8 in Section 7-1-26 NMSA 1978.

9 D. Upon timely receipt of a protest, the department
10 or hearing officer shall promptly set a date for hearing and on
11 that date hear the protest or claim.

12 E. A hearing officer shall be designated by the
13 secretary to conduct the hearing. Taxpayers may appear at a
14 hearing for themselves or be represented by a bona fide
15 employee, an attorney, a certified public accountant or a
16 registered public accountant. Hearings shall not be open to
17 the public except upon request of the taxpayer and may be
18 postponed or continued at the discretion of the hearing
19 officer.

20 F. A hearing officer shall not engage or
21 participate in any way as an employee of the department in the
22 areas of enforcement or formulating general tax policy other
23 than to conduct hearings. A taxpayer may request that the
24 secretary determine whether a hearing officer has engaged or
25 participated in tax policy or enforcement in a way that might

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1 reasonably be expected to affect the hearing officer's
2 impartiality in a particular matter. The secretary may
3 designate another hearing officer for the matter to avoid
4 actual or apparent prejudice.

5 G. A hearing officer shall not engage in ex-parte
6 communications concerning the substantive issues of any matter
7 that has been protested while that matter is still pending. If
8 the secretary finds that a hearing officer has engaged in
9 prohibited ex-parte communications, the secretary shall
10 designate another hearing officer for that matter.

11 H. In hearings before the hearing officer, the
12 taxpayer may elect that the Rules of Civil Procedure for the
13 District Courts apply to the proceedings. The secretary shall
14 prescribe by regulation the manner in which an election shall
15 be made. In the absence of such an election, the technical
16 rules of evidence shall not apply, but in ruling on the
17 admissibility of evidence, the hearing officer may require
18 reasonable substantiation of statements or records tendered,
19 the accuracy or truth of which is in reasonable doubt. A
20 taxpayer may request a written ruling on any contested question
21 of evidence in a matter in which the taxpayer has filed a
22 written protest and that protest is pending.

23 I. In hearings before the hearing officer when the
24 Rules of Civil Procedure for the District Courts [~~shall~~] do not
25 apply, [~~but~~] the hearing shall be conducted so that both

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1 complaints and defenses are amply and fairly presented. To
2 this end, the hearing officer shall hear arguments, permit
3 discovery, entertain and dispose of motions, require written
4 expositions of the case as the circumstances justify and render
5 a decision in accordance with the law and the evidence
6 presented and admitted. A taxpayer may request a written
7 ruling on any contested question of procedure in a matter in
8 which the taxpayer has filed a written protest and that protest
9 is pending.

10 J. In the case of the hearing of any protest, the
11 hearing officer shall make and preserve a complete record of
12 the proceedings. At the beginning of the hearing, the hearing
13 officer shall inform the taxpayer of the taxpayer's right to
14 representation. The hearing officer, within thirty days of the
15 hearing, shall inform the protestant in writing of the
16 decision, informing the protestant at the same time of the
17 right to, and the requirements for perfection of, an appeal
18 from the decision to the court of appeals and of the
19 consequences of a failure to appeal. The written decision
20 shall embody an order granting or denying the relief requested
21 or granting such part thereof as seems appropriate.

22 K. A taxpayer with two or more protests containing
23 related issues may request that such protests be combined and
24 heard jointly. The designated hearing officer shall grant the
25 request to combine protests unless it would create an

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1 unreasonable burden on the department.

2 L. Nothing in this section shall be construed to
3 authorize any criminal proceedings hereunder or to authorize an
4 administrative protest of the issuance of a subpoena or
5 summons. "

6 Section 2. Section 7-1-26 NMSA 1978 (being Laws 1965,
7 Chapter 248, Section 28, as amended) is amended to read:

8 "7-1-26. CLAIM FOR REFUND. --

9 A. Any person who believes that an amount of tax
10 has been paid by or withheld from that person in excess of that
11 for which the person was liable, who has been denied any credit
12 or rebate claimed or who claims a prior right to property in
13 the possession of the department pursuant to a levy made under
14 authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim
15 a refund by directing to the secretary, within the time limited
16 by the provisions of Subsections D, E and F of this section, a
17 written claim for refund. Except as provided in Subsection J
18 of this section, a refund claim shall include the taxpayer's
19 name, address and identification number, the type of tax for
20 which a refund is being claimed, the sum of money being
21 claimed, the period for which overpayment was made and the
22 basis for the refund. As used in this subsection, "basis for
23 the refund" means a brief statement of the facts and the law on
24 which the claim is based. Upon receipt of a claim for refund
25 of gross receipts tax, compensating tax, personal income tax

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1 for years other than the current tax year or corporate income
2 tax for years other than the current tax year, other than a
3 claim described in Subsection J of this section, the department
4 shall promptly send a notice to the person filing the claim
5 stating that it has received the claim and indicating whether
6 it considers the claim to be complete. The department and the
7 person filing the claim may agree to designate the claim as a
8 protective claim.

9 B. The secretary or the secretary's delegate may
10 allow the claim in whole or in part or may deny the claim.

11 (1) If the claim is denied in whole or in part
12 in writing, no claim may be refiled with respect to that which
13 was denied but the person, within ninety days after either the
14 mailing or delivery of the denial of all or any part of the
15 claim, may elect to pursue one, but not more than one, of the
16 remedies in Subsection C of this section.

17 (2) For a claim other than a protective claim,
18 if the department has neither granted nor denied any portion of
19 a claim for refund within one hundred twenty days of the date
20 the claim was mailed or delivered to the department, the person
21 may refile it within the time limits set forth in Subsection C
22 of this section or may within ninety days elect to pursue one,
23 but only one, of the remedies in Subsection C of this section.
24 After the expiration of the two hundred ten days from the date
25 the claim was mailed or delivered to the department, the

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1 department may not approve or disapprove the claim unless the
2 person has pursued one of the remedies under Subsection C of
3 this section.

4 (3) For a protective claim, if the department
5 has not acted within one hundred twenty days from either the
6 date of a final decision in the lead case from which appeal may
7 not be taken or the last date on which appeal may be taken when
8 no appeal is taken, any part of the claim not granted or denied
9 is denied.

10 C. A person may elect to pursue one, but only one,
11 of the remedies in Paragraphs (1) and (2) of this subsection.
12 In any case, if a person does timely pursue more than one
13 remedy, the person shall be deemed to have elected the first
14 remedy invoked. The remedies are as follows:

15 (1) the person may direct to the secretary a
16 written protest against the denial of, or failure to either
17 allow or deny the claim or portion thereof, which shall be set
18 for hearing by a hearing officer designated by the secretary
19 promptly after the receipt of the protest in accordance with
20 the provisions of Section 7-1-24 NMSA 1978, and pursue the
21 remedies of appeal from decisions adverse to the protestant as
22 provided in Section 7-1-25 NMSA 1978; or

23 (2) the person may commence a civil action in
24 the district court for Santa Fe county by filing a complaint
25 setting forth the circumstance of the claimed overpayment,

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1 alleging that on account thereof the state is indebted to the
2 plaintiff in the amount stated, together with any interest
3 allowable, demanding the refund to the plaintiff of that amount
4 and reciting the facts of the claim for refund. The plaintiff
5 or the secretary may appeal from any final decision or order of
6 the district court to the court of appeals.

7 D. Except as otherwise provided in Subsections E
8 and F of this section, no credit or refund of any amount may be
9 allowed or made to any person unless as the result of a claim
10 made by that person as provided in this section:

11 (1) within three years of the end of the
12 calendar year in which:

13 (a) the payment was originally due or
14 the overpayment resulted from an assessment by the department
15 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

16 (b) the final determination of value
17 occurs with respect to any overpayment that resulted from a
18 disapproval by any agency of the United States or the state of
19 New Mexico or any court of increase in value of a product
20 subject to taxation under the Oil and Gas Severance Tax Act,
21 the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency
22 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act
23 or the Natural Gas Processors Tax Act; or

24 (c) property was levied upon pursuant to
25 the provisions of the Tax Administration Act;

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1 (2) when an amount of a claim for credit under
2 the provisions of the Investment Credit Act, Laboratory
3 Partnership with Small Business Tax Credit Act, Technology Jobs
4 Tax Credit Act, Capital Equipment Tax Credit Act or similar act
5 or for the rural job tax credit pursuant to Sections 7-2E-1 and
6 7-2E-2 NMSA 1978 or similar credit has been denied, the
7 taxpayer may claim a refund of the credit no later than one
8 year after the date of the denial;

9 (3) when a taxpayer under audit by the
10 department has signed a waiver of the limitation on assessments
11 on or after July 1, 1993 pursuant to Subsection F of Section
12 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of
13 the same tax paid for the same period for which the waiver was
14 given, until a date one year after the later of the date of the
15 mailing of an assessment issued pursuant to the audit, the date
16 of the mailing of final audit findings to the taxpayer or the
17 date a proceeding is begun in court by the department with
18 respect to the same tax and the same period;

19 (4) if the payment of an amount of tax was not
20 made within three years of the end of the calendar year in
21 which the original due date of the tax or date of the
22 assessment of the department occurred, a claim for refund of
23 that amount of tax can be made within one year of the date on
24 which the tax was paid; or

25 (5) when a taxpayer has been assessed a tax on

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1 or after July 1, 1993 under Subsection B, C or D of Section
2 7-1-18 NMSA 1978 and when the assessment applies to a period
3 ending at least three years prior to the beginning of the year
4 in which the assessment was made, the taxpayer may claim a
5 refund for the same tax for the period of the assessment or for
6 any period following that period within one year of the date of
7 the assessment unless a longer period for claiming a refund is
8 provided in this section.

9 E. No credit or refund shall be allowed or made to
10 any person claiming a refund of gasoline tax under Section
11 7-13-11 NMSA 1978 unless notice of the destruction of the
12 gasoline was given the department within thirty days of the
13 actual destruction and the claim for refund is made within six
14 months of the date of destruction. No credit or refund shall
15 be allowed or made to any person claiming a refund of gasoline
16 tax under Section 7-13-17 NMSA 1978 unless the refund is
17 claimed within six months of the date of purchase of the
18 gasoline and the gasoline has been used at the time the claim
19 for refund is made.

20 F. If, as a result of an audit by the internal
21 revenue service or the filing of an amended federal return
22 changing a prior election or making any other change for which
23 federal approval is required by the Internal Revenue Code, any
24 adjustment of federal tax is made with the result that there
25 would have been an overpayment of tax if the adjustment to

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1 federal tax had been applied to the taxable period to which it
2 relates, claim for credit or refund of only that amount based
3 on the adjustment may be made as provided in this section
4 within one year of the date of the internal revenue service
5 audit adjustment or payment of the federal refund or within the
6 period limited by Subsection D of this section, whichever
7 expires later. Interest computed at the rate specified in
8 Subsection B of Section 7-1-68 NMSA 1978 shall be allowed on
9 any such claim for refund from the date one hundred twenty days
10 after the claim is made until the date the final decision to
11 grant the credit or refund is made.

12 G. If as a result of an audit by the department or
13 a managed audit covering multiple periods an overpayment of tax
14 is found in any period under the audit, that overpayment may be
15 credited against an underpayment of the same tax found in
16 another period under audit pursuant to Section 7-1-29 NMSA
17 1978, provided that the taxpayer files a claim for refund for
18 the overpayments identified in the audit.

19 H. Any refund of tax paid under any tax or tax act
20 administered under Subsection B of Section 7-1-2 NMSA 1978 may
21 be made, at the discretion of the department, in the form of
22 credit against future tax payments if future tax liabilities in
23 an amount at least equal to the credit amount reasonably may be
24 expected to become due.

25 I. For the purposes of this section, the term "oil

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1 and gas tax return" means a return reporting tax due with
2 respect to oil, natural gas, liquid hydrocarbons or carbon
3 dioxide pursuant to the Oil and Gas Severance Tax Act, the Oil
4 and Gas Conservation Tax Act, the Oil and Gas Emergency School
5 Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the
6 Natural Gas Processors Tax Act or the Oil and Gas Production
7 Equipment Ad Valorem Tax Act.

8 J. The filing of a fully completed original income
9 tax return, corporate income tax return, corporate income and
10 franchise tax return, estate tax return or special fuel excise
11 tax return that shows a balance due the taxpayer or a fully
12 completed amended income tax return, an amended corporate
13 income tax return, an amended corporate income and franchise
14 tax return, an amended estate tax return, an amended special
15 fuel excise tax return or an amended oil and gas tax return
16 that shows a lesser tax liability than the original return
17 constitutes the filing of a claim for refund for the difference
18 in tax due shown on the original and amended returns.

19 K. For the purposes of this section:

20 (1) "protective claim" means a claim for
21 refund filed by a person asserting that the person's
22 entitlement to a refund will be established by a final decision
23 of a New Mexico court of competent jurisdiction on a claim for
24 refund or protest previously filed by that person or another;
25 and

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1 Over \$21, 000 but not over \$22, 500 \$3, 000
2 Over \$22, 500 [~~but not over \$24, 000~~ ~~\$2, 000~~] \$2, 500
3 [~~Over \$24, 000 but not over \$25, 500~~ ~~\$1, 000~~
4 ~~Over \$25, 500~~ ~~0~~].

5 B. For heads of household, surviving spouses and
6 married individuals filing joint returns, for any taxable year
7 beginning on or after January 1, 1987:

8 The maximum amount of
9 If adjusted exemption allowable under
10 gross income is: this section shall be:

11 Not over \$30, 000 \$8, 000
12 Over \$30, 000 but not over \$33, 000 \$7, 000
13 Over \$33, 000 but not over \$36, 000 \$6, 000
14 Over \$36, 000 but not over \$39, 000 \$5, 000
15 Over \$39, 000 but not over \$42, 000 \$4, 000
16 Over \$42, 000 but not over \$45, 000 \$3, 000
17 Over \$45, 000 [~~but not over \$48, 000~~ ~~\$2, 000~~] \$2, 500
18 [~~Over \$48, 000 but not over \$51, 000~~ ~~\$1, 000~~
19 ~~Over \$51, 000~~ ~~0~~].

20 C. For single individuals, for any taxable year
21 beginning on or after January 1, 1987:

22 The maximum amount of
23 If adjusted exemption allowable under
24 gross income is: this section shall be:

25 Not over \$18, 000 \$8, 000

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1	Over \$18, 000 but not over \$19, 500	\$7, 000
2	Over \$19, 500 but not over \$21, 000	\$6, 000
3	Over \$21, 000 but not over \$22, 500	\$5, 000
4	Over \$22, 500 but not over \$24, 000	\$4, 000
5	Over \$24, 000 but not over \$25, 500	\$3, 000
6	Over \$25, 500 [but not over \$27, 000]	\$2, 000 <u>\$2, 500</u>
7	[Over \$27, 000 but not over \$28, 500	\$1, 000
8	Over \$28, 500	0]. "

9 Section 4. Section 7-2-7 NMSA 1978 (being Laws 2003,
10 Chapter 2, Section 3), which is to become effective January 1,
11 2004, is amended to read:

12 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
13 Section 7-2-3 NMSA 1978 shall be at the following rates for any
14 taxable year beginning in 2004:

15 A. For married individuals filing separate returns:

16	If the taxable income is:	The tax shall be:
17	Not over \$4, 000	1. 7% of taxable income
18	Over \$ 4, 000 but not over \$ 8, 000	\$ 68. 00 plus 3. 2% of
19		excess over \$ 4, 000
20	Over \$ 8, 000 but not over \$ 12, 000	\$ 196 plus 4. 7% of
21		excess over \$ 8, 000
22	Over \$ 12, 000 but not over \$ 20, 000	\$ 384 plus 6. 0% of
23		excess over \$ 12, 000
24	Over \$ 20, 000	\$ 864 plus 6. 8% of
25		excess over \$ 20, 000.

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1 B. For heads of household, surviving spouses and
2 married individuals filing joint returns:

3 If the taxable income is:	The tax shall be:
4 Not over \$8,000	1.7% of taxable income
5 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
6	excess over \$ 8,000
7 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
8	excess over \$ 16,000
9 Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of
10	excess over \$ 24,000
11 Over \$ 40,000	\$ 1,728 plus 6.8% of
12	excess over \$ 40,000.

13 C. For single individuals and for estates and
14 trusts:

15 If the taxable income is:	The tax shall be:
16 Not over \$5,500	1.7% of taxable income
17 Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
18	excess over \$ 5,500
19 Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
20	excess over \$ 11,000
21 Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of
22	excess over \$ 16,000
23 Over \$ 26,000	\$1,104.50 plus 6.8% of
24	excess over \$ 26,000.

25 ~~[D. For heads of household filing returns:~~

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1 ~~----- If the taxable income is:----- The tax shall be:~~
2 ~~Not over \$7,000----- 1.7% of taxable income~~
3 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~
4 ~~----- excess over \$ 7,000~~
5 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
6 ~~----- excess over \$ 14,000~~
7 ~~Over \$ 20,000 but not over \$ 33,000 \$ 625 plus 6.0% of~~
8 ~~----- excess over \$ 20,000~~
9 ~~Over \$ 33,000----- \$1,405 plus 6.8% of~~
10 ~~----- excess over \$ 33,000.~~

11 E.] D. The tax on the sum of any lump-sum amounts
12 included in net income is an amount equal to five multiplied by
13 the difference between:

- 14 (1) the amount of tax due on the taxpayer's
- 15 taxable income; and
- 16 (2) the amount of tax that would be due on an
- 17 amount equal to the taxpayer's taxable income and twenty percent
- 18 of the taxpayer's lump-sum amounts included in net income. "

19 Section 5. Section 7-2-7 NMSA 1978 (being Laws 2003,
20 Chapter 2, Section 4), which is to become effective January 1,
21 2005, is amended to read:

22 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
23 Section 7-2-3 NMSA 1978 shall be at the following rates for any
24 taxable year beginning in 2005:

25 A. For married individuals filing separate returns:

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1 If the taxable income is: The tax shall be:
2 Not over \$4,000 1.7% of taxable income
3 Over \$ 4,000 but not over \$ 8,000 \$ 68.00 plus 3.2% of
4 excess over \$ 4,000
5 Over \$ 8,000 but not over \$ 12,000 \$ 196 plus 4.7% of
6 excess over \$ 8,000
7 Over \$ 12,000 \$ 384 plus 6.0% of
8 excess over \$ 12,000.

9 B. For heads of household, surviving spouses and
10 married individuals filing joint returns:

11 If the taxable income is: The tax shall be:
12 Not over \$8,000 1.7% of taxable income
13 Over \$ 8,000 but not over \$ 16,000 \$ 136 plus 3.2% of
14 excess over \$ 8,000
15 Over \$ 16,000 but not over \$ 24,000 \$ 392 plus 4.7% of
16 excess over \$ 16,000
17 Over \$ 24,000 \$ 768 plus 6.0% of
18 excess over \$ 24,000.

19 C. For single individuals and for estates and
20 trusts:

21 If the taxable income is: The tax shall be:
22 Not over \$5,500 1.7% of taxable income
23 Over \$ 5,500 but not over \$ 11,000 \$ 93.50 plus 3.2% of
24 excess over \$ 5,500
25 Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of

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1 excess over \$ 11,000
2 Over \$ 16,000 \$ 504.50 plus 6.0% of
3 excess over \$ 16,000.

4 ~~[D. For heads of household filing returns:~~

5 ~~----- If the taxable income is: ----- The tax shall be:~~
6 ~~Not over \$7,000 ----- 1.7% of taxable income~~
7 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~
8 ~~----- excess over \$ 7,000~~
9 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
10 ~~----- excess over \$ 14,000~~
11 ~~Over \$ 20,000 ----- \$ 625 plus 6.0% of~~
12 ~~----- excess over \$ 20,000.~~

13 E.] D. The tax on the sum of any lump-sum amounts
14 included in net income is an amount equal to five multiplied by
15 the difference between:

- 16 (1) the amount of tax due on the taxpayer's
17 taxable income; and
18 (2) the amount of tax that would be due on an
19 amount equal to the taxpayer's taxable income and twenty percent
20 of the taxpayer's lump-sum amounts included in net income. "

21 Section 6. Section 7-2-7 NMSA 1978 (being Laws 2003,
22 Chapter 2, Section 5), which is to become effective January 1,
23 2006, is amended to read:

24 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
25 Section 7-2-3 NMSA 1978 shall be at the following rates for any
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1 taxable year beginning in 2006:

2 A. For married individuals filing separate returns:

3 If the taxable income is:	The tax shall be:
4 Not over \$4,000	1.7% of taxable income
5 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
6	excess over \$ 4,000
7 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
8	excess over \$ 8,000
9 Over \$ 12,000	\$ 384 plus 5.3% of
10	excess over \$ 12,000.

11 B. For heads of household, surviving spouses and
12 married individuals filing joint returns:

13 If the taxable income is:	The tax shall be:
14 Not over \$8,000	1.7% of taxable income
15 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
16	excess over \$ 8,000
17 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
18	excess over \$ 16,000
19 Over \$ 24,000	\$ 768 plus 5.3% of
20	excess over \$ 24,000.

21 C. For single individuals and for estates and
22 trusts:

23 If the taxable income is:	The tax shall be:
24 Not over \$5,500	1.7% of taxable income
25 Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of

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1 excess over \$ 5,500
2 Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of
3 excess over \$ 11,000
4 Over \$ 16,000 \$ 504.50 plus 5.3% of
5 excess over \$ 16,000.

6 ~~[D. For heads of household filing returns:~~

7 ~~— If the taxable income is: — The tax shall be:~~
8 ~~Not over \$7,000 — 1.7% of taxable income~~
9 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~
10 ~~— excess over \$ 7,000~~
11 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~
12 ~~— excess over \$ 14,000~~
13 ~~Over \$ 20,000 \$ 625 plus 5.3% of~~
14 ~~— excess over \$ 20,000.~~

15 E.] D. The tax on the sum of any lump-sum amounts
16 included in net income is an amount equal to five multiplied by
17 the difference between:

- 18 (1) the amount of tax due on the taxpayer's
19 taxable income; and
20 (2) the amount of tax that would be due on an
21 amount equal to the taxpayer's taxable income and twenty percent
22 of the taxpayer's lump-sum amounts included in net income. "

23 Section 7. Section 7-2-7 NMSA 1978 (being Laws 2003,
24 Chapter 2, Section 6), which is to become effective January 1,
25 2007, is amended to read:

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1 "7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
2 Section 7-2-3 NMSA 1978 shall be at the following rates for any
3 taxable year beginning on or after January 1, 2007:

4 A. For married individuals filing separate returns:

5 If the taxable income is:	The tax shall be:
6 Not over \$4,000	1.7% of taxable income
7 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
8	excess over \$ 4,000
9 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
10	excess over \$ 8,000
11 Over \$ 12,000	\$ 384 plus 4.9% of
12	excess over \$ 12,000.

13 B. For heads of household, surviving spouses and
14 married individuals filing joint returns:

15 If the taxable income is:	The tax shall be:
16 Not over \$8,000	1.7% of taxable income
17 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
18	excess over \$ 8,000
19 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
20	excess over \$ 16,000
21 Over \$ 24,000	\$ 768 plus 4.9% of
22	excess over \$ 24,000.

23 C. For single individuals and for estates and
24 trusts:

25 If the taxable income is: The tax shall be:

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1 Not over \$5,500 1.7% of taxable income
2 Over \$ 5,500 but not over \$ 11,000 \$ 93.50 plus 3.2% of
3 excess over \$ 5,500
4 Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of
5 excess over \$ 11,000
6 Over \$ 16,000 \$ 504.50 plus 4.9% of
7 excess over \$ 16,000.

8 ~~[D. For heads of household filing returns:~~

9 ~~—— If the taxable income is: —— The tax shall be:~~

10 ~~Not over \$7,000 —— 1.7% of taxable income~~

11 ~~Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of~~

12 ~~—— excess over \$ 7,000~~

13 ~~Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of~~

14 ~~—— excess over \$ 14,000~~

15 ~~Over \$ 20,000 —— \$ 625 plus 4.9% of~~

16 ~~—— excess over \$ 20,000.~~

17 E.] D. The tax on the sum of any lump-sum amounts
18 included in net income is an amount equal to five multiplied by
19 the difference between:

20 (1) the amount of tax due on the taxpayer's
21 taxable income; and

22 (2) the amount of tax that would be due on an
23 amount equal to the taxpayer's taxable income and twenty percent
24 of the taxpayer's lump-sum amounts included in net income. "

25 Section 8. Section 7-2-14 NMSA 1978 (being Laws 1972,

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1 Chapter 20, Section 2, as amended) is amended to read:

2 "7-2-14. [~~LOW INCOME COMPREHENSIVE TAX REBATE~~] FAMILY AND
3 INDIVIDUAL REBATE. --

4 A. Except as otherwise provided in Subsection B of
5 this section, any resident who files an individual New Mexico
6 income tax return and who is not a dependent of another
7 individual may claim a tax rebate for a portion of state and
8 local taxes to which the resident has been subject during the
9 taxable year for which the return is filed. The tax rebate may
10 be claimed even though the resident has no income taxable under
11 the Income Tax Act. A husband and wife who file separate
12 returns for a taxable year in which they could have filed a
13 joint return may each claim only one-half of the tax rebate that
14 would have been allowed on a joint return.

15 B. No claim for the tax rebate provided in this
16 section shall be filed by a resident who was an inmate of a
17 public institution for more than six months during the taxable
18 year for which the tax rebate could be claimed or who was not
19 physically present in New Mexico for at least six months during
20 the taxable year for which the tax rebate could be claimed.

21 C. For the purposes of this section, the total
22 number of exemptions for which a tax rebate may be claimed or
23 allowed is determined by adding the number of federal exemptions
24 allowable for federal income tax purposes for each individual
25 included in the return who is domiciled in New Mexico plus two

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1 additional exemptions for each individual domiciled in New
 2 Mexico included in the return who is sixty-five years of age or
 3 older plus one additional exemption for each individual
 4 domiciled in New Mexico included in the return who, for federal
 5 income tax purposes, is blind plus one exemption for each minor
 6 child or stepchild of the resident who would be a dependent for
 7 federal income tax purposes if the public assistance
 8 contributing to the support of the child or stepchild was
 9 considered to have been contributed by the resident.

10 D. The tax rebate provided for in this section may
 11 be claimed in the amount shown in the following table:

Modified gross income is:	And the total number of exemptions is:							
	But Not Over	Over	1	2	3	4	5	6 or More
\$ 0	\$ 500	\$120	\$160	\$200	\$240	\$280	\$320	
500	1,000	135	195	250	310	350	415	
1,000	1,500	135	195	250	310	350	435	
1,500	2,000	135	195	250	310	350	450	
2,000	2,500	135	195	250	310	350	450	
2,500	3,000	135	195	250	310	350	450	
3,000	3,500	135	195	250	310	350	450	
3,500	4,000	135	195	250	310	355	450	
4,000	4,500	135	195	250	310	355	450	
4,500	5,000	125	190	240	305	355	450	

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1	5,000	5,500	115	175	230	295	355	430	
2	5,500	6,000	105	155	210	260	315	410	
3	6,000	7,000	90	130	170	220	275	370	
4	7,000	8,000	80	115	145	180	225	295	
5	8,000	9,000	70	105	135	170	195	240	
6	9,000	10,000	65	95	115	145	175	205	
7	10,000	11,000	60	80	100	130	155	185	
8	11,000	12,000	55	70	90	110	135	160	
9	12,000	13,000	50	65	85	100	115	140	
10	13,000	14,000	50	65	85	100	115	140	
11	14,000	15,000	45	60	75	90	105	120	
12	15,000	16,000	40	55	70	85	95	110	
13	16,000	17,000	35	50	65	80	85	105	
14	17,000	18,000	30	45	60	70	80	95	
15	18,000	19,000	25	35	50	60	70	80	
16	19,000	20,000	20	30	40	50	60	65	
17	20,000	21,000	15	25	30	40	50	55	
18	21,000	22,000	10	20	25	35	40	45]	
19	<u>But Not</u>							<u>7 or</u>	
20	<u>Over</u>	<u>Over</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>More</u>
21	<u>\$ 0</u>	<u>\$1,000</u>	<u>\$180</u>	<u>\$281</u>	<u>\$373</u>	<u>\$460</u>	<u>\$515</u>	<u>\$605</u>	<u>\$704</u>
22	<u>1,000</u>	<u>3,000</u>	<u>180</u>	<u>281</u>	<u>373</u>	<u>460</u>	<u>515</u>	<u>640</u>	<u>745</u>
23	<u>3,000</u>	<u>5,000</u>	<u>180</u>	<u>281</u>	<u>373</u>	<u>460</u>	<u>520</u>	<u>640</u>	<u>745</u>
24	<u>5,000</u>	<u>6,000</u>	<u>160</u>	<u>261</u>	<u>353</u>	<u>445</u>	<u>520</u>	<u>620</u>	<u>722</u>
25	<u>6,000</u>	<u>7,000</u>	<u>135</u>	<u>216</u>	<u>293</u>	<u>370</u>	<u>440</u>	<u>560</u>	<u>652</u>

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1	<u>7,000</u>	<u>8,000</u>	<u>125</u>	<u>201</u>	<u>268</u>	<u>330</u>	<u>390</u>	<u>485</u>	<u>564</u>
2	<u>8,000</u>	<u>9,000</u>	<u>115</u>	<u>191</u>	<u>258</u>	<u>320</u>	<u>360</u>	<u>430</u>	<u>500</u>
3	<u>9,000</u>	<u>10,000</u>	<u>103</u>	<u>181</u>	<u>238</u>	<u>295</u>	<u>340</u>	<u>395</u>	<u>459</u>
4	<u>10,000</u>	<u>11,000</u>	<u>85</u>	<u>166</u>	<u>223</u>	<u>280</u>	<u>320</u>	<u>375</u>	<u>436</u>
5	<u>11,000</u>	<u>12,000</u>	<u>65</u>	<u>156</u>	<u>213</u>	<u>260</u>	<u>300</u>	<u>350</u>	<u>407</u>
6	<u>12,000</u>	<u>13,000</u>	<u>50</u>	<u>144</u>	<u>208</u>	<u>250</u>	<u>280</u>	<u>330</u>	<u>383</u>
7	<u>13,000</u>	<u>14,000</u>	<u>50</u>	<u>137</u>	<u>208</u>	<u>250</u>	<u>280</u>	<u>330</u>	<u>383</u>
8	<u>14,000</u>	<u>15,000</u>	<u>45</u>	<u>120</u>	<u>198</u>	<u>240</u>	<u>270</u>	<u>310</u>	<u>360</u>
9	<u>15,000</u>	<u>16,000</u>	<u>40</u>	<u>105</u>	<u>193</u>	<u>235</u>	<u>260</u>	<u>300</u>	<u>348</u>
10	<u>16,000</u>	<u>17,000</u>	<u>35</u>	<u>90</u>	<u>170</u>	<u>230</u>	<u>250</u>	<u>295</u>	<u>343</u>
11	<u>17,000</u>	<u>18,000</u>	<u>30</u>	<u>78</u>	<u>155</u>	<u>220</u>	<u>245</u>	<u>285</u>	<u>331</u>
12	<u>18,000</u>	<u>19,000</u>	<u>25</u>	<u>61</u>	<u>130</u>	<u>210</u>	<u>235</u>	<u>270</u>	<u>313</u>
13	<u>19,000</u>	<u>20,000</u>	<u>20</u>	<u>49</u>	<u>105</u>	<u>195</u>	<u>225</u>	<u>255</u>	<u>296</u>
14	<u>20,000</u>	<u>21,000</u>	<u>15</u>	<u>37</u>	<u>80</u>	<u>175</u>	<u>215</u>	<u>245</u>	<u>284</u>
15	<u>21,000</u>	<u>22,000</u>	<u>10</u>	<u>20</u>	<u>70</u>	<u>160</u>	<u>205</u>	<u>235</u>	<u>273</u>
16	<u>22,000</u>	<u>23,000</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>115</u>	<u>155</u>	<u>183</u>	<u>220</u>
17	<u>23,000</u>	<u>24,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>105</u>	<u>145</u>	<u>176</u>	<u>210</u>
18	<u>24,000</u>	<u>25,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>60</u>	<u>135</u>	<u>169</u>	<u>200</u>
19	<u>25,000</u>	<u>26,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>125</u>	<u>145</u>	<u>190</u>
20	<u>26,000</u>	<u>27,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>115</u>	<u>138</u>	<u>180</u>
21	<u>27,000</u>	<u>28,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>15</u>	<u>105</u>	<u>131</u>	<u>170</u>
22	<u>28,000</u>	<u>29,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>95</u>	<u>124</u>	<u>150</u>
23	<u>29,000</u>	<u>30,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>117</u>	<u>130</u>
24	<u>30,000</u>	<u>31,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>105</u>	<u>120</u>
25	<u>31,000</u>	<u>32,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>93</u>	<u>115</u>

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1	<u>32,000</u>	<u>33,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>81</u>	<u>100</u>
2	<u>33,000</u>	<u>34,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>45</u>	<u>85</u>
3	<u>34,000</u>	<u>35,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>73</u>
4	<u>35,000</u>	<u>36,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>15</u>	<u>61</u>
5	<u>36,000</u>	<u>37,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>49</u>
6	<u>37,000</u>	<u>38,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>37</u>
7	<u>38,000</u>	<u>39,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>25.</u>

8 E. If a taxpayer's modified gross income is zero,
9 the taxpayer may claim a credit in the amount shown in the
10 first row of the table appropriate for the taxpayer's number of
11 exemptions.

12 F. The tax rebates provided for in this section may
13 be deducted from the taxpayer's New Mexico income tax liability
14 for the taxable year. If the tax rebates exceed the taxpayer's
15 income tax liability, the excess shall be refunded to the
16 taxpayer.

17 G. For purposes of this section:

18 (1) "dependent" means "dependent" as defined
19 by Section 152 of the Internal Revenue Code of 1986, as that
20 section may be amended or renumbered, but also includes any
21 minor child or stepchild of the resident who would be a
22 dependent for federal income tax purposes if the public
23 assistance contributing to the support of the child or
24 stepchild was considered to have been contributed by the
25 resident; and

1 (2) "modified gross income" means "modified
2 gross income" as defined in Section 7-2-2 NMSA 1978 but also
3 includes the value of food stamp program benefits."

4 Section 9. A new section of the Income Tax Act is
5 enacted to read:

6 "[NEW MATERIAL] ADDITIONAL EXEMPTION AMOUNT. --

7 A. An individual may claim an additional exemption
8 amount as specified in Subsections B, C and D of this section;
9 provided that the additional exemption amount shall not exceed
10 an amount equal to the number of federal exemptions multiplied
11 by three thousand dollars (\$3,000) of income includable, except
12 for this exemption, in net income. Individuals having income
13 both within and without this state shall apportion this
14 exemption in accordance with regulations of the secretary.

15 B. For single individuals:

16 (1) if the number of federal exemptions is
17 one, the additional exemption amount shall be three thousand
18 dollars (\$3,000) less fifteen percent of the amount obtained by
19 subtracting eight thousand dollars (\$8,000) from the adjusted
20 gross income;

21 (2) if the number of federal exemptions is
22 two, the additional exemption amount for each federal exemption
23 shall be three thousand dollars (\$3,000) less fifteen percent
24 of the amount obtained by subtracting eleven thousand dollars
25 (\$11,000) from the adjusted gross income;

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1 (3) if the number of federal exemptions is
2 three, the additional exemption amount for each federal
3 exemption shall be three thousand dollars (\$3,000) less fifteen
4 percent of the amount obtained by subtracting fourteen thousand
5 dollars (\$14,000) from the adjusted gross income;

6 (4) if the number of federal exemptions is
7 four, the additional exemption amount for each federal
8 exemption shall be three thousand dollars (\$3,000) less fifteen
9 percent of the amount obtained by subtracting seventeen
10 thousand dollars (\$17,000) from the adjusted gross income;

11 (5) if the number of federal exemptions is
12 five, the additional exemption amount for each federal
13 exemption shall be three thousand dollars (\$3,000) less fifteen
14 percent of the amount obtained by subtracting twenty thousand
15 dollars (\$20,000) from the adjusted gross income;

16 (6) if the number of federal exemptions is
17 six, the additional exemption amount for each federal exemption
18 shall be three thousand dollars (\$3,000) less fifteen percent
19 of the amount obtained by subtracting twenty-three thousand
20 dollars (\$23,000) from the adjusted gross income; and

21 (7) if the number of federal exemptions is
22 seven or more, the additional exemption amount for each federal
23 exemption shall be three thousand dollars (\$3,000) less fifteen
24 percent of the amount obtained by subtracting twenty-six
25 thousand dollars (\$26,000) from the adjusted gross income.

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1 C. For heads of household, surviving spouses and
2 married individuals filing joint returns:

3 (1) if the number of federal exemptions is
4 one, the additional exemption amount shall be three thousand
5 dollars (\$3,000) less fifteen percent of the amount obtained by
6 subtracting twelve thousand dollars (\$12,000) from the adjusted
7 gross income;

8 (2) if the number of federal exemptions is
9 two, the additional exemption amount for each federal exemption
10 shall be three thousand dollars (\$3,000) less fifteen percent
11 of the amount obtained by subtracting fifteen thousand dollars
12 (\$15,000) from the adjusted gross income;

13 (3) if the number of federal exemptions is
14 three, the additional exemption amount for each federal
15 exemption shall be three thousand dollars (\$3,000) less fifteen
16 percent of the amount obtained by subtracting eighteen thousand
17 dollars (\$18,000) from the adjusted gross income;

18 (4) if the number of federal exemptions is
19 four, the additional exemption amount for each federal
20 exemption shall be three thousand dollars (\$3,000) less fifteen
21 percent of the amount obtained by subtracting twenty-one
22 thousand dollars (\$21,000) from the adjusted gross income;

23 (5) if the number of federal exemptions is
24 five, the additional exemption amount for each federal
25 exemption shall be three thousand dollars (\$3,000) less fifteen

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1 percent of the amount obtained by subtracting twenty-four
2 thousand dollars (\$24,000) from the adjusted gross income;

3 (6) if the number of federal exemptions is
4 six, the additional exemption amount for each federal exemption
5 shall be three thousand dollars (\$3,000) less fifteen percent
6 of the amount obtained by subtracting twenty-seven thousand
7 dollars (\$27,000) from the adjusted gross income; and

8 (7) if the number of federal exemptions is
9 seven or more, the additional exemption amount for each federal
10 exemption shall be three thousand dollars (\$3,000) less fifteen
11 percent of the amount obtained by subtracting thirty thousand
12 dollars (\$30,000) from the adjusted gross income.

13 D. For married individuals filing separate returns:

14 (1) if the number of federal exemptions is
15 one, the additional exemption amount shall be three thousand
16 dollars (\$3,000) less fifteen percent of the amount obtained by
17 subtracting six thousand dollars (\$6,000) from the adjusted
18 gross income;

19 (2) if the number of federal exemptions is
20 two, the additional exemption amount for each federal exemption
21 shall be three thousand dollars (\$3,000) less fifteen percent
22 of the amount obtained by subtracting seven thousand five
23 hundred dollars (\$7,500) from the adjusted gross income;

24 (3) if the number of federal exemptions is
25 three, the additional exemption amount for each federal

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1 exemption shall be three thousand dollars (\$3,000) less fifteen
2 percent of the amount obtained by subtracting nine thousand
3 dollars (\$9,000) from the adjusted gross income;

4 (4) if the number of federal exemptions is
5 four, the additional exemption amount for each federal
6 exemption shall be three thousand dollars (\$3,000) less fifteen
7 percent of the amount obtained by subtracting ten thousand five
8 hundred dollars (\$10,500) from the adjusted gross income;

9 (5) if the number of federal exemptions is
10 five, the additional exemption amount for each federal
11 exemption shall be three thousand dollars (\$3,000) less fifteen
12 percent of the amount obtained by subtracting twelve thousand
13 dollars (\$12,000) from the adjusted gross income;

14 (6) if the number of federal exemptions is
15 six, the additional exemption amount for each federal exemption
16 shall be three thousand dollars (\$3,000) less fifteen percent
17 of the amount obtained by subtracting thirteen thousand five
18 hundred dollars (\$13,500) from the adjusted gross income; and

19 (7) if the number of federal exemptions is
20 seven or more, the additional exemption amount for each federal
21 exemption shall be three thousand dollars (\$3,000) less fifteen
22 percent of the amount obtained by subtracting fifteen thousand
23 dollars (\$15,000) from the adjusted gross income.

24 E. For the purposes of this section, "federal
25 exemption" means an exemption allowable for federal income tax

1 purposes for an individual included in the return who is
2 domiciled in New Mexico.

3 F. In lieu of the computations required to
4 determine the amount of the additional exemption provided by
5 this section, the secretary may adopt regulations allowing the
6 use of tables to determine the additional exemption amount.
7 The tables may be established either by regulation or
8 instruction but shall be computed substantially on the basis of
9 the computations prescribed in this section."

10 Section 10. [NEW MATERIAL] BUSINESS SERVICES TAX

11 CREDIT. --

12 A. The tax credit provided in this section may be
13 referred to as the "business services tax credit". An eligible
14 taxpayer may apply for, and the taxation and revenue department
15 may allow, a tax credit in an amount equal to six hundred
16 twenty-five thousandths percent of qualified business service
17 expenditures by the taxpayer.

18 B. The business services tax credit may be claimed
19 by an eligible taxpayer for qualified business service
20 expenditures paid on or after July 1, 2004 and within three
21 years of the end of the calendar year in which the expenditure
22 was made.

23 C. The business services tax credit may be claimed
24 against state gross receipts tax, compensating tax or
25 withholding tax for which the taxpayer would be liable for a

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1 tax reporting period in which the qualified business service
2 expenditure was paid or later periods. In no case may the
3 credit taken exceed the total gross receipts tax, compensating
4 tax or withholding tax due for the reporting period. After the
5 initial reporting period in which part of the credit for a
6 qualified expenditure was claimed, any excess credit may be
7 carried forward and used in future reporting periods.

8 D. For the purposes of this section:

9 (1) "department means "department" as defined
10 in the Tax Administration Act;

11 (2) "eligible taxpayer" means "taxpayer" as
12 defined in the Tax Administration Act but does not include:

13 (a) a federal, state or other
14 governmental unit or subdivision or an agency, department,
15 institution or instrumentality thereof; or

16 (b) a taxpayer qualified to take the
17 exemption granted under Section 7-9-29 NMSA 1978; and

18 (3) "qualified business service expenditure"
19 means an amount paid to purchase services performed in New
20 Mexico if the receipts from that purchase are subject to gross
21 receipts tax and are not eligible for a deduction or exemption
22 from the gross receipts tax, but does not include expenditures
23 for:

24 (a) entertainment or recreational
25 services, including expenditures not deductible for purposes of

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1 determining net income under the Internal Revenue Code and
2 expenditures deductible only under Section 274 of the Internal
3 Revenue Code;

4 (b) janitorial services;

5 (c) repair and maintenance services;

6 (d) services in respect to which the
7 taxpayer applies for and is granted any other New Mexico tax
8 credit; and

9 (e) gross receipts taxes.

10 E. The department shall provide forms and
11 instructions for claiming the business services tax credit as a
12 reduction of tax due on the tax return on which the taxpayer
13 reports gross receipts tax, compensating tax or withholding tax.

14 F. The department shall administer the business
15 services tax credit pursuant to the provisions of the Tax
16 Administration Act.

17 Section 11. A new section of the Gross Receipts and
18 Compensating Tax Act is enacted to read:

19 "[NEW MATERIAL] HIGH-WAGE JOBS TAX CREDIT. --

20 A. A taxpayer who is an eligible employer may apply
21 for, and the taxation and revenue department may allow, a tax
22 credit for each new high-wage economic-based job. The credit
23 provided in this section may be referred to as the "high-wage
24 jobs tax credit".

25 B. The high-wage jobs tax credit may be claimed and

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1 allowed in an amount equal to ten percent of the wages
2 distributed to an eligible employee in a new high-wage
3 economic-based job, but shall not exceed twelve thousand
4 dollars (\$12,000).

5 C. The high-wage jobs tax credit may be claimed by
6 an eligible employer for each new high-wage economic-based job
7 performed for the year in which the new high-wage economic-
8 based job is created and for the three following qualifying
9 periods.

10 D. A new high-wage economic-based job shall not be
11 eligible for a credit pursuant to this section unless the
12 eligible employer's total number of employees with new high-
13 wage economic-based jobs on the last day of the qualifying
14 period at the location at which the job is performed or based
15 is at least one more than the number on the day prior to the
16 date the job was created.

17 E. With respect to each new high-wage economic-
18 based job for which an eligible employer seeks the high-wage
19 jobs tax credit, the employer shall certify:

20 (1) the amount of wages paid to each eligible
21 employee in a new high-wage economic-based job during each
22 qualifying period;

23 (2) the number of weeks the position was
24 occupied during the qualifying period;

25 (3) whether the new high-wage economic-based

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1 job was performed or based in:

2 (a) a municipality with a population of
3 forty thousand or more according to the most recent federal
4 decennial census;

5 (b) a municipality with a population of
6 less than forty thousand according to the most recent federal
7 decennial census; or

8 (c) the unincorporated area of a county;
9 and

10 (4) the total number of employees employed by
11 the employer at the job location on the day prior to the
12 qualifying period and on the last day of the qualifying period.

13 F. To receive a high-wage jobs tax credit with
14 respect to any qualifying period, an eligible employer shall
15 apply to the taxation and revenue department on forms and in
16 the manner prescribed by the department. The application shall
17 include a certification made pursuant to Subsection E of this
18 section.

19 G. The credit provided in this section may be
20 deducted from the modified combined tax liability of a
21 taxpayer. If the credit exceeds the modified combined tax
22 liability of the taxpayer, the excess shall be refunded to the
23 taxpayer.

24 H. As used in this section:

25 (1) "eligible employee" means an individual

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1 who is employed by an eligible employer and who is a resident
2 of New Mexico; "eligible employee" does not include an
3 individual who:

4 (a) bears any of the relationships
5 described in Paragraphs (1) through (8) of 26 U. S. C. Section
6 152(a) to the employer or, if the employer is a corporation, to
7 an individual who owns, directly or indirectly, more than fifty
8 percent in value of the outstanding stock of the corporation
9 or, if the employer is an entity other than a corporation, to
10 an individual who owns, directly or indirectly, more than fifty
11 percent of the capital and profits interest in the entity;

12 (b) if the employer is an estate or
13 trust, is a grantor, beneficiary or fiduciary of the estate or
14 trust or is an individual who bears any of the relationships
15 described in Paragraphs (1) through (8) of 26 U. S. C. Section
16 152(a) to a grantor, beneficiary or fiduciary of the estate or
17 trust;

18 (c) is a dependent, as that term is
19 described in 26 U. S. C. Section 152(a) (9), of the employer or,
20 if the taxpayer is a corporation, of an individual who owns,
21 directly or indirectly, more than fifty percent in value of the
22 outstanding stock of the corporation or, if the employer is an
23 entity other than a corporation, of an individual who owns,
24 directly or indirectly, more than fifty percent of the capital
25 and profits interests in the entity or, if the employer is an

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1 estate or trust, of a grantor, beneficiary or fiduciary of the
2 estate or trust; or

3 (d) is working or has worked as an
4 employee or as an independent contractor for an entity that
5 directly or indirectly owns stock in a corporation of the
6 eligible employer or other interest of the eligible employer
7 that represents fifty percent or more of the total voting power
8 of that entity or has a value equal to fifty percent or more of
9 the capital and profits interest in the entity;

10 (2) "eligible employer" means an employer
11 that:

12 (a) made more than fifty percent of its
13 sales to persons outside New Mexico during the most recent
14 twelve months of the employer's modified combined tax liability
15 reporting periods ending prior to claiming a high-wage jobs tax
16 credit; and

17 (b) is eligible for training assistance
18 pursuant to Section 21-19-7 NMSA 1978;

19 (3) "modified combined tax liability" means
20 the total liability for the reporting period for the gross
21 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
22 any tax collected at the same time and in the same manner as
23 the gross receipts tax, including the compensating tax,
24 withholding tax, interstate telecommunications gross receipts
25 tax, surcharges imposed by Section 63-9D-5 NMSA 1978 and the

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1 surcharge imposed by Section 63-9F-11 NMSA 1978, minus the
2 amount of any credit other than the high-wage jobs tax credit
3 applied against any or all of these taxes or surcharges; but
4 "modified combined tax liability" excludes all amounts
5 collected with respect to local option gross receipts taxes;

6 (4) "new high-wage economic-based job" means a
7 job created by an eligible employer on or after July 1, 2004
8 and prior to July 1, 2009 that is occupied for at least forty-
9 eight weeks of a qualifying period by an eligible employee who
10 is paid wages calculated for the qualifying period to be at
11 least:

12 (a) forty thousand dollars (\$40,000) if
13 the job is performed or based in a municipality with a
14 population of forty thousand or more according to the most
15 recent federal decennial census; and

16 (b) twenty-eight thousand dollars
17 (\$28,000) if the job is performed or based in a municipality
18 with a population of less than forty thousand according to the
19 most recent federal decennial census or in the unincorporated
20 area of a county;

21 (5) "qualifying period" means the period of
22 twelve months beginning on the day an eligible employee begins
23 working in a new high-wage economic-based job or the period of
24 twelve months beginning on the anniversary of the day an
25 eligible employee began working in a new high-wage economic-

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1 based job; and

2 (6) "wages" means wages as defined in
3 Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)."

4 Section 12. A new section of the Gross Receipts and
5 Compensating Tax Act is enacted to read:

6 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--RESEARCH AND
7 DEVELOPMENT SMALL BUSINESSES. --

8 A. Receipts of a qualified research and development
9 small business may be deducted from gross receipts to the
10 extent that such receipts are directly related to the subject
11 matter of its qualified research, as defined in Paragraph (3)
12 of Subsection B of this section. The deduction provided by
13 this section may be claimed only for a period ending thirty-
14 five consecutive calendar months after the first calendar month
15 for which the deduction is claimed by the taxpayer or by a
16 person to whom the taxpayer is a successor pursuant to Section
17 7-1-61 NMSA 1978.

18 B. As used in this section:

19 (1) "qualified research and development small
20 business" means a business, including a corporation, general
21 partnership, limited partnership, limited liability company,
22 sole proprietorship or other similar entity, that:

23 (a) employed no more than twenty-five
24 employees on a full-time-equivalent basis in any prior calendar
25 month;

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1 (b) had total revenues of no more than
2 ten million dollars (\$10,000,000) in any prior fiscal year;

3 (c) did not in any prior calendar month
4 have more than fifty percent of its voting securities or other
5 equity interest with the right to designate or elect the board
6 of directors or other governing body of the qualified business
7 owned directly or indirectly by another business; and

8 (d) has made qualified research
9 expenditures for the period of twelve calendar months ending
10 with the month for which the deduction is sought of at least
11 twenty percent of its total revenues for those twelve calendar
12 months;

13 (2) "qualified research expenditure" means an
14 expenditure in connection with qualified research, but does not
15 include any expenditure on research funded by any grant,
16 contract or similar mechanism by another person or governmental
17 entity, and does not include any expenditure on property that
18 is owned by a municipality or county in connection with an
19 industrial revenue bond project or property for which the
20 taxpayer has received any credit pursuant to the Capital
21 Equipment Tax Credit Act, the Investment Credit Act or the
22 Technology Jobs Tax Credit Act; and

23 (3) "qualified research" means research:

24 (a) that is undertaken for the purpose
25 of discovering information that is technological in nature and

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1 the application of which is intended to be useful in the
2 development of a new or improved business component of the
3 taxpayer; and

4 (b) in which substantially all
5 activities constitute elements of a process of experimentation
6 related to new or improved function, performance, reliability
7 or quality, but not related to style, taste, cosmetic or
8 seasonal design factors. "

9 Section 13. A new section of the Gross Receipts and
10 Compensating Tax Act is enacted to read:

11 "[NEW MATERIAL] DEDUCTION--COMPENSATING TAX--RESEARCH AND
12 DEVELOPMENT SMALL BUSINESSES. --

13 A. A qualified research and development small
14 business may deduct the value of tangible personal property in
15 computing the compensating tax due if the property is used in
16 connection with a qualified research expenditure. The
17 deduction provided by this section may be claimed only for a
18 period ending thirty-five consecutive calendar months after the
19 first calendar month for which the deduction is claimed.

20 B. As used in this section:

21 (1) "qualified research and development small
22 business" means a business, including a corporation, general
23 partnership, limited partnership, limited liability company,
24 sole proprietorship or other similar entity, that:

25 (a) employed no more than twenty-five

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1 employees on a full-time-equivalent basis in any prior calendar
2 month;

3 (b) had total revenues of no more than
4 ten million dollars (\$10,000,000) in any prior fiscal year;

5 (c) did not in any prior calendar month
6 have more than fifty percent of its voting securities or other
7 equity interest with the right to designate or elect the board
8 of directors or other governing body of the qualified business
9 owned directly or indirectly by another business; and

10 (d) has made qualified research
11 expenditures for the period of twelve calendar months ending
12 with the month for which the deduction is sought of at least
13 twenty percent of its total revenues for those twelve calendar
14 months;

15 (2) "qualified research expenditure" means an
16 expenditure in connection with qualified research, but does not
17 include any expenditure on research funded by any grant,
18 contract or similar mechanism by another person or governmental
19 entity, and does not include any expenditure on property that
20 is owned by a municipality or county in connection with an
21 industrial revenue bond project or property for which the
22 taxpayer has received any credit pursuant to the Capital
23 Equipment Tax Credit Act, the Investment Credit Act or the
24 Technology Jobs Tax Credit Act; and

25 (3) "qualified research" means research:

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1 (a) that is undertaken for the purpose
2 of discovering information that is technological in nature and
3 the application of which is intended to be useful in the
4 development of a new or improved business component of the
5 taxpayer; and

6 (b) in which substantially all
7 activities constitute elements of a process of experimentation
8 related to new or improved function, performance, reliability
9 or quality, but not related to style, taste, cosmetic or
10 seasonal design factors. "

11 Section 14. A new section of the Gross Receipts and
12 Compensating Tax Act is enacted to read:

13 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--CERTAIN
14 RECEIPTS FROM SERVICES PROVIDED BY LICENSED HEALTH CARE
15 PRACTITIONERS. --

16 A. Receipts of a licensed health care practitioner
17 from payments by a managed health care provider for medicare
18 part C services or commercial contract services may be deducted
19 from gross receipts.

20 B. As used in this section:

21 (1) "commercial contract services" means
22 health care services performed pursuant to a contract with a
23 managed health care provider other than those health care
24 services provided for medicare patients pursuant to Title 18 of
25 the federal Social Security Act or for medicaid patients

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1 pursuant to Title 19 or Title 21 of the federal Social Security
2 Act;

3 (2) "licensed health care practitioner" means:

4 (a) a chiropractic physician licensed
5 pursuant to the provisions of the Chiropractic Physician
6 Practice Act;

7 (b) a dentist or dental hygienist
8 licensed pursuant to the provisions of the Dental Health Care
9 Act;

10 (c) a physician or physician assistant
11 licensed pursuant to the provisions of the Medical Practice
12 Act;

13 (d) an osteopathic physician licensed
14 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
15 or an osteopathic physician's assistant licensed pursuant to
16 the provisions of the Osteopathic Physicians' Assistants Act;

17 (e) a doctor of oriental medicine
18 licensed pursuant to the provisions of the Acupuncture and
19 Oriental Medicine Practice Act;

20 (f) a podiatrist licensed pursuant to
21 the provisions of the Podiatry Act;

22 (g) a psychologist licensed pursuant to
23 the provisions of the Professional Psychologist Act;

24 (h) a registered nurse or licensed
25 practical nurse licensed pursuant to the provisions of the

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1 Nursing Practice Act;

2 (i) a registered lay midwife registered
3 by the department of health;

4 (j) a physical therapist licensed
5 pursuant to the provisions of the Physical Therapy Act;

6 (k) an optometrist licensed pursuant to
7 the provisions of the Optometry Act;

8 (l) a registered occupational therapist
9 registered pursuant to the provisions of the Occupational
10 Therapy Act;

11 (m) a respiratory care practitioner
12 licensed pursuant to the provisions of the Respiratory Care
13 Act;

14 (n) a clinical laboratory accredited
15 pursuant to 42 USCA 263; and

16 (o) a speech-language pathologist or
17 audiologist licensed pursuant to the Speech-Language Pathology,
18 Audiology and Hearing Aid Dispensing Practices Act;

19 (3) "managed health care provider" means a
20 person licensed by the insurance division of the public
21 regulation commission that provides for the delivery of
22 comprehensive basic health care services and medically
23 necessary services to individuals enrolled in a plan through
24 its own employed health care providers or by contracting with
25 selected or participating health care providers; and

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1 (4) "medicare part C services" means services
2 performed pursuant to a contract with a managed health care
3 provider for medicare patients pursuant to Title 18 of the
4 federal Social Security Act. "

5 Section 15. A new section of the Gross Receipts and
6 Compensating Tax Act is enacted to read:

7 "[NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX--RECEIPTS
8 FROM CERTAIN ATHLETIC CONTESTS, SPORTING EVENTS AND CONCERTS. --

9 Exempted from the gross receipts tax are:

10 A. receipts from promoting professional contests
11 subject to the regulatory fee imposed pursuant to Section
12 60-2A-23 NMSA 1978 and from exhibiting live professional
13 contests subject to the supervisory fee imposed pursuant to
14 Section 60-2A-26 NMSA 1978;

15 B. receipts from ticket sales or admission fees for
16 professional contests as defined in Section 60-2A-2 NMSA 1978,
17 auto racing and one-time sporting events; and

18 C. receipts from ticket sales or admission fees for
19 a live concert held at a venue capable of accommodating at
20 least two thousand five hundred persons. "

21 Section 16. Section 7-9-22 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 15, as amended) is amended to read:

23 "7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES. --
24 Exempted from the gross receipts tax are the receipts from
25 selling vehicles on which a tax is imposed by the Motor Vehicle

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1 Excise Tax Act, [~~and on~~] vehicles subject to registration under
2 Section 66-3-16 NMSA 1978 and vehicles exempt from the motor
3 vehicle excise tax pursuant to Subsection F of Section 7-14-6
4 NMSA 1978. "

5 Section 17. Section 7-9-23 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 16, as amended) is amended to read:

7 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES. -- Exempted
8 from the compensating tax is the use of vehicles on which the
9 tax imposed by the Motor Vehicle Excise Tax Act has been paid,
10 [~~and on~~] the use of vehicles subject to registration under
11 Section 66-3-16 NMSA 1978 and the use of vehicles exempt from
12 the motor vehicle excise tax pursuant to Subsection F of
13 Section 7-14-6 NMSA 1978. "

14 Section 18. Section 7-14-6 NMSA 1978 (being Laws 1988,
15 Chapter 73, Section 16, as amended) is amended to read:

16 "7-14-6. EXEMPTIONS FROM TAX. --

17 A. Persons who acquire a vehicle out of state
18 thirty or more days before establishing a domicile in this
19 state are exempt from the tax if the vehicle was acquired for
20 personal use.

21 B. Persons applying for a certificate of title for
22 a vehicle registered in another state are exempt from the tax
23 if they have previously registered and titled the vehicle in
24 New Mexico and have owned the vehicle continuously since that
25 time.

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1 C. Certificates of title for all vehicles owned by
2 this state or any political subdivision are exempt from the
3 tax.

4 D. A vehicle subject to registration under Section
5 66-3-16 NMSA 1978 is exempt from the tax.

6 E. Persons who acquire vehicles for subsequent
7 lease shall be exempt from the tax if:

8 (1) the person does not use the vehicle in any
9 manner other than holding it for lease or sale or leasing or
10 selling it in the ordinary course of business;

11 (2) the lease is for a term of more than six
12 months;

13 (3) the receipts from the subsequent lease are
14 subject to the gross receipts tax; and

15 (4) the vehicle does not have a gross vehicle
16 weight of over twenty-six thousand pounds.

17 F. Vehicles that are manufactured to operate
18 exclusively on alternative fuel or are gasoline-electric hybrid
19 vehicles with a United States environmental protection agency
20 fuel economy rating of at least twenty-two and one-half miles
21 per gallon are eligible for a one-time exemption from the tax
22 at the time of the issuance of the original certificate of
23 title for the vehicle. For purposes of this subsection,
24 "alternative fuel" means natural gas, liquefied petroleum gas,
25 electricity, hydrogen, a fuel mixture containing not less than

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1 eighty-five percent ethanol or methanol, a fuel mixture
2 containing not less than twenty percent vegetable oil or a
3 water-phased hydrocarbon fuel emulsion consisting of a
4 hydrocarbon base and water in an amount not less than twenty
5 percent by volume of the total water-phased fuel emulsion."

6 Section 19. Section 9-11-6.2 NMSA 1978 (being Laws 1995,
7 Chapter 31, Section 3) is amended to read:

8 "9-11-6.2. ADMINISTRATIVE REGULATIONS, RULINGS,
9 INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS.--

10 A. The secretary is empowered and directed to issue
11 and file as required by law all regulations, rulings,
12 instructions or orders necessary to implement and enforce any
13 provision of any law the administration and enforcement of
14 which the department, the secretary, any division of the
15 department or any director of any division of the department is
16 charged, including all rules and regulations necessary by
17 reason of any alteration of any such law. In order to
18 accomplish its purpose, this provision is to be liberally
19 construed.

20 B. Directives issued by the secretary shall be in
21 form substantially as follows:

22 (1) regulations shall be written statements of
23 the secretary of general application, interpreting and
24 exemplifying or implementing the [statues] statutes to which
25 they relate and may be issued in response to a request from a

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1 taxpayer or other interested party;

2 (2) rulings shall be written statements of the
3 secretary, of limited application to one or a small number of
4 persons, interpreting the statutes to which they relate,
5 ordinarily issued in response to a request for clarification of
6 the consequences of a specified set of circumstances;

7 (3) orders shall be written statements of the
8 secretary or a hearing officer or other delegate of the
9 secretary to implement a decision after a hearing; and

10 (4) instructions shall be other written
11 statements or directives of the secretary or secretary's
12 delegate not dealing with the merits of any law but otherwise
13 in aid of the accomplishment of the duties of the secretary.

14 C. To be effective, any ruling or regulation issued
15 by the secretary shall be reviewed by the attorney general or
16 other legal counsel of the department prior to being filed as
17 required by law, and the fact of the review shall be indicated
18 on the ruling or regulation.

19 D. To be effective, a regulation shall first be
20 issued as a proposed regulation and filed for public inspection
21 in the office of the secretary. Unless otherwise provided by
22 statute, no regulation affecting any person or agency outside
23 the department shall be adopted, amended or repealed without a
24 public hearing on the proposed action before the secretary or a
25 hearing officer designated by the secretary. The public

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1 hearing shall be held in Santa Fe unless otherwise permitted by
2 statute. Notice of the subject matter of the regulation, the
3 action proposed to be taken, the time and place of the hearing,
4 the manner in which interested parties may present their views
5 and the method by which copies of the proposed regulation,
6 proposed amendment or repeal of an existing regulation may be
7 obtained shall be published at least thirty days prior to the
8 hearing date in [a] the New Mexico register and mailed at least
9 thirty days prior to the hearing date to all persons who have
10 made a written request for advance notice of hearing. After
11 the proposed regulation has been on file for not less than
12 sixty days and a public hearing on the proposed action has been
13 held by the secretary or a hearing officer designated by the
14 secretary, the secretary may issue it as a final regulation by
15 signing the regulation and filing the regulation in the manner
16 required by law. The secretary shall not delegate the
17 authority to sign regulations.

18 E. In addition to filing copies of regulations with
19 the state records center as required by law, the secretary
20 shall maintain in the office of the secretary a duplicate
21 official set of current and superseded regulations, a set of
22 current and superseded rulings and such additional sets of
23 those regulations and rulings as appear necessary, which
24 duplicate or additional sets shall be available for inspection
25 by the public, but superseded regulations need be maintained

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1 for no longer than ten years from the date of supersession.

2 F. The secretary shall develop and maintain a file
3 of names and addresses of individuals and professional and
4 industry groups having an interest in the promulgation of new,
5 revised or proposed regulations. At convenient times, the
6 secretary shall distribute to these persons all such
7 regulations and all pertinent rulings, making such charges as
8 will defray the expense incurred in their physical preparation
9 and mailing. Such charges are appropriated to the department
10 to defray the costs of preparing and distributing regulations
11 and rulings.

12 G. Any regulation, ruling, instruction or order
13 issued by the secretary or order or instruction issued by a
14 hearing officer or other delegate of the secretary is presumed
15 to be a proper implementation of the provisions of the laws
16 that are charged to the department, the secretary, any division
17 of the department or any director of any division of the
18 department.

19 H. The extent to which regulations, rulings and
20 orders will have retroactive effect shall be stated and, if no
21 such statement is made, they will be applied prospectively
22 only. "

23 Section 20. Section 60-2A-23 NMSA 1978 (being Laws 1980,
24 Chapter 90, Section 23, as amended) is amended to read:

25 "60-2A-23. [~~PRIVILEGE TAX~~] REGULATORY FEES ON

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1 PROMOTIONS. --

2 A. In addition to any other taxes or fees provided
3 by law, there is imposed upon every promoter for the privilege
4 of promoting a professional ~~[contests]~~ contest a ~~[tax at the~~
5 ~~rate of]~~ regulatory fee in an amount determined pursuant to the
6 rules of the commission to be sufficient to cover the costs of
7 regulating the contest; provided that the fee may not exceed
8 four percent of the total gross receipts of any professional
9 contest conducted live in New Mexico.

10 B. The commission shall adopt rules and regulations
11 for the administration, collection and enforcement of the ~~[tax]~~
12 fee imposed ~~in~~ pursuant to this section.

13 C. As used in this section, "total gross receipts
14 of any professional contest" includes:

15 (1) the gross price charged for the sale,
16 lease or other exploitation of broadcasting, television or
17 motion picture rights of ~~[such]~~ the professional contest
18 without any deductions for commissions, brokerage fees,
19 distribution fees, advertising or other expenses or charges;

20 (2) the face value of all tickets sold and
21 complimentary tickets issued; and

22 (3) any sums received as consideration for
23 holding a professional contest at a particular location. "

24 Section 21. Section 60-2A-24 NMSA 1978 (being Laws 1980,
25 Chapter 90, Section 24) is amended to read:

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1 "60-2A-24. ATHLETIC COMMISSION FUND. --The proceeds of the
2 [~~privilege tax~~] regulatory fee on promotions and of the
3 [~~privilege tax~~] supervisory fee on closed-circuit television or
4 motion pictures, together with any license fees or other fees
5 authorized [~~under~~] pursuant to the Professional Athletic
6 Competition Act, shall be deposited with the state treasurer to
7 the credit of the "athletic commission fund", which is hereby
8 created. Expenditures from the athletic commission fund shall
9 only be made on vouchers issued and signed by the person
10 designated by the commission upon warrants drawn by the
11 department of finance and administration in accordance with the
12 budget approved by the department of finance and
13 administration. "

14 Section 22. Section 60-2A-25 NMSA 1978 (being Laws 1980,
15 Chapter 90, Section 25) is amended to read:

16 "60-2A-25. TIME OF PAYMENT OF [~~PRIVILEGE TAX~~] REGULATORY
17 FEE. --

18 A. Any person upon whom the [~~privilege tax~~]
19 regulatory fee is imposed [~~by~~] pursuant to Section [~~23 of the~~
20 ~~Professional Athletic Competition Act~~] 60-2A-23 NMSA 1978
21 shall, within seventy-two hours after the completion of any
22 professional contest for which an admission fee is charged and
23 received or a contribution is requested and received, furnish
24 to the commission a written report on forms prescribed by the
25 commission showing:

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1 (1) the number of tickets sold and issued or
2 sold or issued for ~~[such]~~ the professional contest;

3 (2) the amount of the gross receipts or value
4 thereof;

5 (3) the amount of gross receipts derived from
6 the sale, lease or other exploitation of broadcasting, motion
7 picture or television rights of ~~[such]~~ the professional
8 contest, ~~[and]~~ without any deductions for commissions,
9 brokerage fees, distribution fees, advertising or any other
10 expenses or charges; and

11 (4) such other matters as the commission may
12 prescribe.

13 B. The commission or any of its authorized
14 employees may inspect the books, ticket stubs or any other data
15 necessary for the proper enforcement of the ~~[privilege tax]~~
16 regulatory fee and supervisory fee imposed ~~[in]~~ pursuant to the
17 Professional Athletic Competition Act. "

18 Section 23. Section 60-2A-26 NMSA 1978 (being Laws 1980,
19 Chapter 90, Section 26, as amended) is amended to read:

20 "60-2A-26. ~~[PRIVILEGE TAX]~~ SUPERVISORY FEE ON CLOSED-
21 CIRCUIT TELECASTS OR MOTION PICTURES--REPORT TO COMMISSION.--

22 A. Any person who charges and receives an admission
23 fee for exhibiting any live professional contest on a closed-
24 circuit telecast or motion picture shall, within seventy-two
25 hours after the event, furnish to the commission a verified

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1 written report on a form prescribed by the commission showing
2 the number of tickets sold and issued or sold or issued and the
3 gross receipts for the exhibition without any deductions.

4 B. There is imposed a [~~tax~~] supervisory fee upon
5 the privilege of exhibiting for an admission fee any live
6 professional contest [~~except a live professional boxing contest~~
7 ~~held in New Mexico between the effective date of this 1997 act~~
8 ~~and July 1, 1999]~~ on a closed-circuit telecast or motion
9 picture. [~~The rate of the tax imposed is~~] A supervisory fee is
10 imposed in an amount determined pursuant to the rules of the
11 commission to be sufficient to cover the costs of supervising
12 the exhibition; provided that the fee may not exceed five
13 percent of the gross receipts derived from the exhibition.

14 C. The [~~privilege tax~~] fee imposed [~~in~~] pursuant to
15 this section shall be administered, collected, enforced and the
16 proceeds deposited as provided in Section 60-2A-24 NMSA 1978. "

17 Section 24. Section 60-2A-27 NMSA 1978 (being Laws 1980,
18 Chapter 90, Section 27) is amended to read:

19 "60-2A-27. PENALTY--NONPAYMENT OF FEE. --Any person who
20 willfully attempts to evade or defeat any [~~tax~~] regulatory or
21 supervisory fee or the payment thereof imposed [~~by~~] pursuant to
22 the Professional Athletic Competition Act is guilty of a fourth
23 degree felony. "

24 Section 25. Section 60-2A-28 NMSA 1978 (being Laws 1980,
25 Chapter 90, Section 28) is amended to read:

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1 "60-2A-28. CIVIL PENALTY. -- In the case of failure due to
2 negligence or disregard of rules and regulations of the
3 commission, but without intent to defraud, to pay when due any
4 amount of [~~tax~~] regulatory or supervisory fee required to be
5 paid by the Professional Athletic Competition Act, there shall
6 be added to the amount two percent per month or a fraction
7 [~~thereof~~] of a month from the date the tax was due or from the
8 date the report was required to be filed, not to exceed ten
9 percent [~~thereof~~] of the fee due. "

10 Section 26. A new section of the Professional Athletic
11 Competition Act is enacted to read:

12 "[NEW MATERIAL] COOPERATIVE AGREEMENTS WITH TRIBAL
13 GOVERNMENTS. --

14 A. The commission may enter into a cooperative
15 agreement with an Indian nation, tribe or pueblo whose tribal
16 lands lie wholly or partly in New Mexico for the exchange of
17 information and for the reciprocal, joint or common direction,
18 management or control of professional contests conducted, held
19 or given in New Mexico. To be effective, an agreement must be
20 signed by the governor of this state.

21 B. Money collected by the commission on behalf of
22 an Indian nation, tribe or pueblo in accordance with an
23 agreement entered into pursuant to this section is not money of
24 this state and shall be collected and disbursed in accordance
25 with the terms of the agreement, notwithstanding any other

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1 provision of law.

2 C. Nothing in an agreement entered into pursuant to
3 this section shall be construed as an assertion or an admission
4 by either this state or by the Indian nation, tribe or pueblo
5 that the fees of one have precedence over the fees of the other
6 when the person, event or transaction is subject to the
7 jurisdiction of both governments. An agreement entered into
8 pursuant to this section shall be construed solely as an
9 agreement between the two party governments and shall not alter
10 or affect the government-to-government relations between this
11 state and any other Indian nation, tribe or pueblo. "

12 Section 27. APPLICABILITY. --The provisions of Sections 3
13 through 9 of this act apply to taxable years beginning on or
14 after January 1, 2004.

15 Section 28. EMERGENCY. --It is necessary for the public
16 peace, health and safety that this act take effect immediately.